Prospective Maritime Jurisdictions in the Polar Seas

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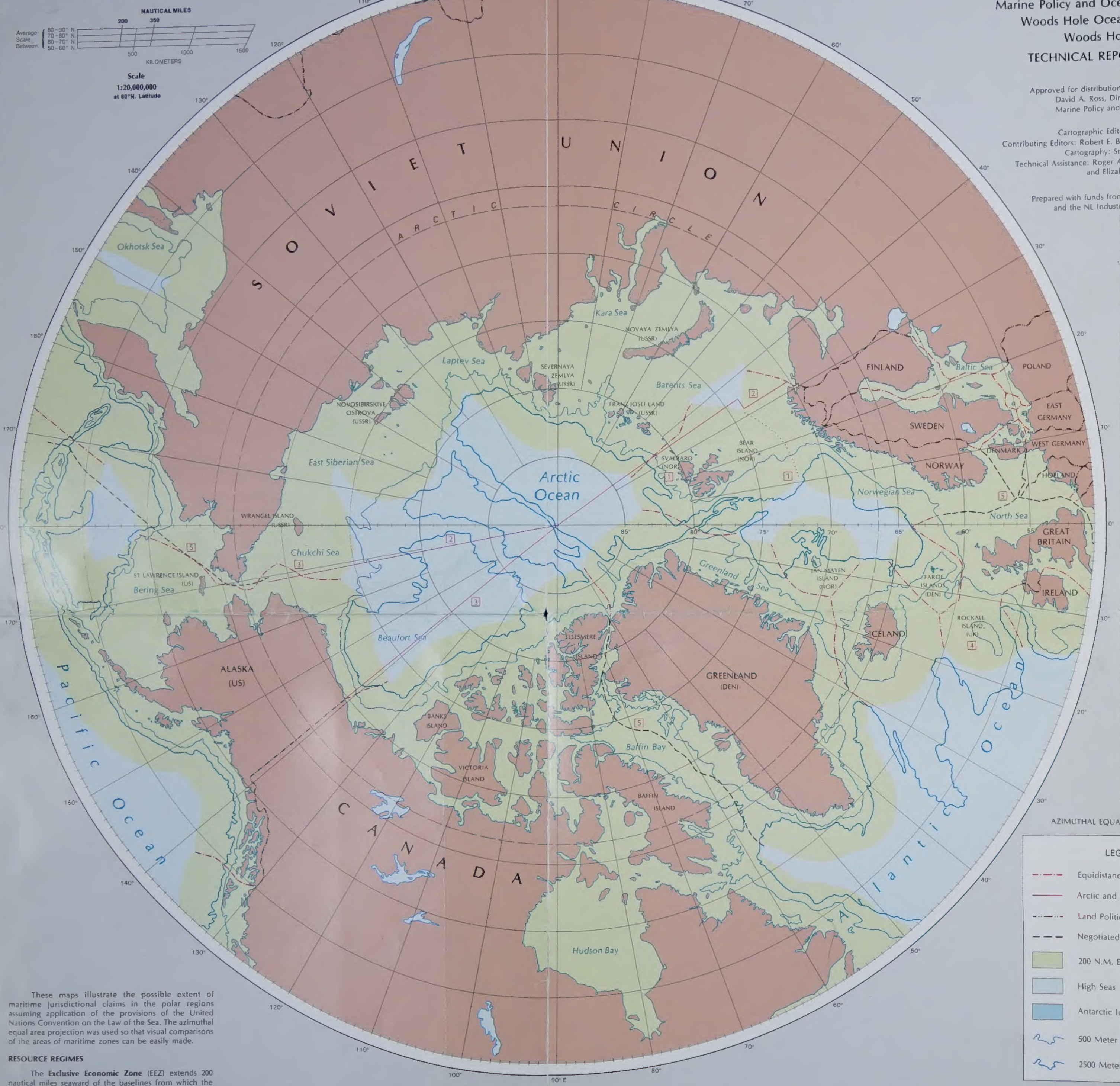
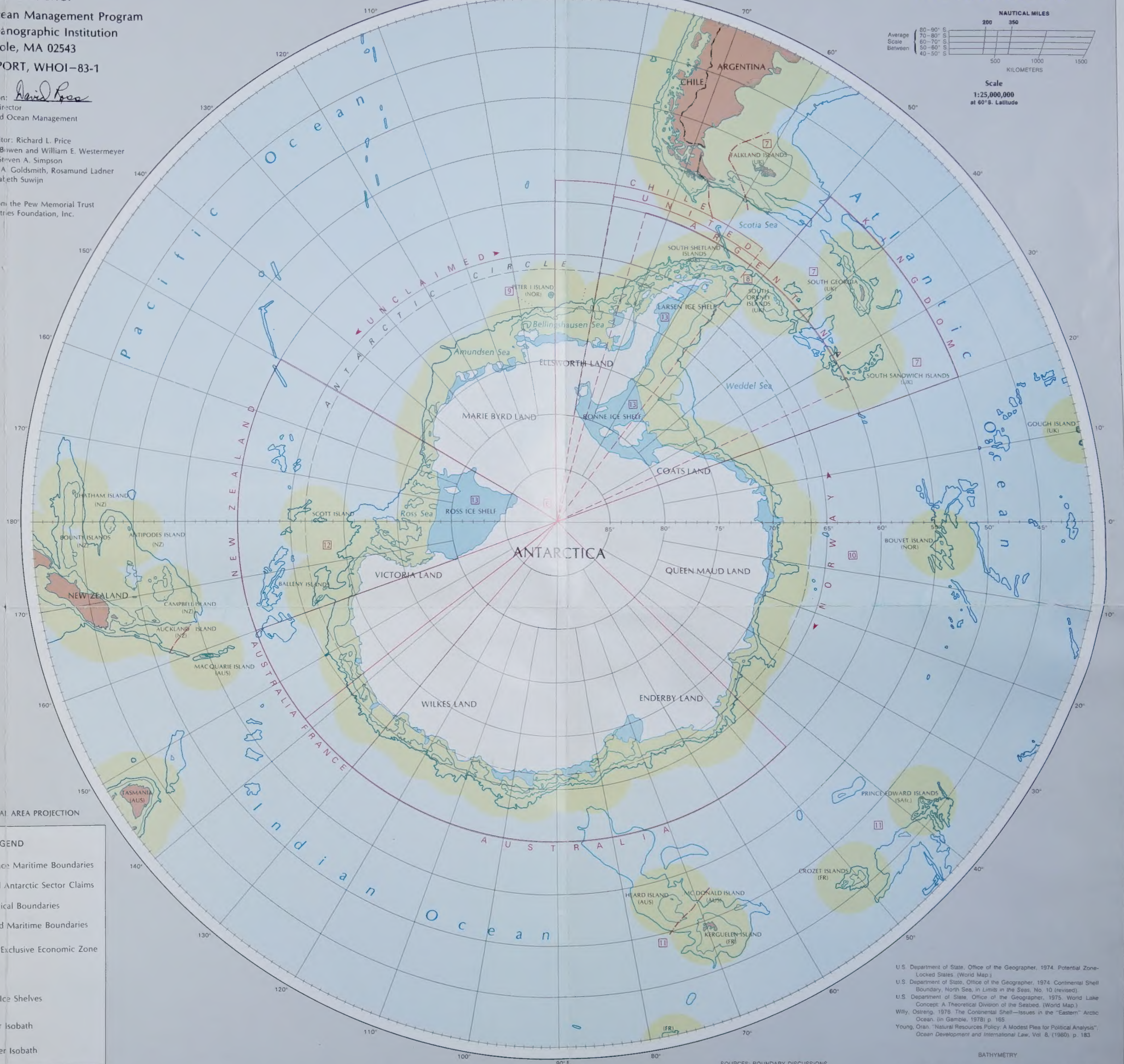
THE ARCTIC



THE ANTARCTIC



AZIMUTHAL EQUAL AREA PROJECTION

LEGEND

- Equidistance Maritime Boundaries
- Arctic and Antarctic Sector Claims
- Land Political Boundaries
- Negotiated Maritime Boundaries
- 🟩 200 N.M. Exclusive Economic Zone
- ▢ High Seas
- 🟦 Antarctic Ice Shelves
- 500 Meter Isobath
- 2500 Meter Isobath

These maps illustrate the possible extent of maritime jurisdictional claims in the polar regions assuming application of the provisions of the United Nations Convention on the Law of the Sea. The azimuthal equal area projection was used so that visual comparisons of the areas of maritime zones can be easily made.

RESOURCE REGIMES

The **Exclusive Economic Zone** (EEZ) extends 200 nautical miles seaward of the baselines from which the national territorial sea is measured. Within this zone the coastal state is granted exclusive and limited rights over the exploration and exploitation of natural resources, the establishment and use of artificial islands, the conduct of marine scientific research, and the protection and preservation of the marine environment.

The **Continental Shelf** comprises the submerged prolongation of the land mass of the coastal state out to the edge of the continental margin or to a distance of 200 nautical miles from the territorial sea baselines, whichever is further. Where the edge of the continental margin extends beyond 200 nautical miles the coastal state shall establish its seaward extent by either:

> 1) a line delineated by "fixed points at each of which the thickness of sedimentary rocks is at least 1 percent of the shortest distance from such point to the foot of the continental slope" (Article 76:4a,i); or
>
> 2) "a line delineated . . . by reference to fixed points not more than 60 nautical miles from the foot of the continental slope" (Article 76:4a,ii).

The foot of the slope is determined "as the point of maximum change in the gradient at its base (Article 76:4b).

Notwithstanding these provisions the outermost limit of the Continental Shelf cannot extend beyond 350 nautical miles from the baseline of the territorial sea or 100 nautical miles seaward of the 2500 meter isobath.

On the continental shelf the coastal state is granted sovereign rights for the purpose of exploration and exploitation of natural resources. However, with exceptions for certain developing countries, a portion of the revenue derived from areas beyond 200 nautical miles must be paid to the International Seabed Authority.

The **High Seas** are those parts of the water column beyond the limits of national jurisdiction. Within these waters states may exercise traditional high seas freedoms with regard to fishing, scientific research, navigation, overflight, the laying of submarine cables and pipelines, and the construction of artificial islands and other installations permitted under international law.

The **Deep Seabed,** referred to in the Convention as **The Area,** is defined as the seabed and subsoil beyond the limits of national jurisdiction. The resources of **The Area** are designated as part of the Common Heritage of Mankind and their extraction is governed by the International Seabed Authority through a permit process. Profits or royalties accumulated by the Authority are to be placed in a U.N. fund for economic development.

In areas where the above regimes are likely to overlap, the equidistance principle has been used to delimit possible resource zones. The choice of equidistance lines was made while acknowledging that in many cases consideration must often be given to other factors such as special geographic circumstances, historic claims, and use of equitable principals in the final determination of such boundaries. In calculating the equidistance boundaries for these maps, equal weight has been given to all coastlines, including islands, islets, rocks and the outer limits of permanent ice shelves (in Antarctica). Particular caution should be used in regard to islands. According to the Law of the Sea Convention (Article 121:3) "[r]ocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf." The terms "economic life" and "human habitation" are not defined in the treaty text; hence, it is likely that debate will arise in deciding what islets and rocks will be allowed extended resource zones. The exclusive economic zones shown on these maps should be viewed as the maximum extensions possible and not all states may choose to extend the EEZ of questionable islands.

THE ARCTIC

1 Under the 1920 Svalbard Treaty the islands of the Svalbard archipelago were given special international status. While Norway's sovereignty over the islands was upheld, a special cooperative resource regime was established in which all treaty signatories were guaranteed equal access to exploit Svalbard's resources. Treaty signatories included a number of European states as well as Norway, the U.S. and the Soviet Union. Since the late 1960s the Soviet Union has tried to extend the terms of the treaty, originally meant to apply only to the land area and four-mile territorial sea, to include Svalbard's marine resources in the EEZ and on the continental shelf. Norway opposes this claim, maintaining that all resources beyond the treaty area belong exclusively to Norway and that the treaty applies only to the areas identified in 1920. A possible equidistance boundary separating Svalbard and Norway is shown. Bear Island is administered as part of Svalbard.

2 Jurists in both the Soviet Union and Canada have argued that the Arctic is subject to claims based on the sector principle. This principle asserts that jurisdictional claims can be drawn from the coast to the pole similar to claims in Antarctica. In 1926 the Soviet Union issued its Sector Decree, asserting sovereignty over all islands (discovered and undiscovered) between 32° 04′ 35″ East and 168° 49′ 30″ West. In the late 1950s the Soviet press argued in favor of expanding this decree to cover the polar seas, continental shelf, ice pack, and air space. Claims such as these based on tenuous legal principles or "special circumstances" have not been widely recognized internationally. Since 1967, for instance, the Soviet Union and Norway have disputed the delimitation of the continental shelf in the Barents Sea. Norway claims the equidistance line as the legitimate boundary, while the Soviets cite their sector claim.

3 Canada has also used the sector principle to extend certain forms of jurisdiction over the seas and shelf in the Arctic. The 141st meridian forms the land boundary between Canada and Alaska and the line has been used in issuing offshore oil and gas permits since 1965 and in defining the "Arctic Waters" in Canada's anti-pollution legislation of 1970. The U.S. does not recognize the claim, and instead favors use of the equidistance line. Similarly, in the Chukchi Sea disputes over delimiting the Soviet–U.S. continental shelf may arise since the Soviet sector line and the equidistance boundary overlap.

4 Problems with defining the terms "habitability" and "economic life" of islands under Article 121 of the LOS Treaty have already arisen in the case of Rockall. Rockall is a group of uninhabited low-lying rocks claimed by the United Kingdom. The U.K. claims Rockall should be given full consideration in determining both the outer edge of its EEZ and shelf and the equidistance boundaries. However, Ireland and Denmark argue that it should have little or no effect on the boundaries due to its size, distance from the U.K., and lack of human habitation or economic life. Rockall is given full consideration on this map.

5 Maritime boundaries on the Arctic map are based on the equidistance line with the exceptions of those in the North Sea, that between Greenland and Canada, and between Alaska and the U.S.S.R. These boundaries were negotiated among the countries involved in 1965–71 in the North Sea, 1973 between Greenland and Canada and in the 1867 treaty which ceded Alaska to the U.S. In the case of Alaska both the treaty boundary and the equidistance line are shown since it is not entirely clear if the 1867 line will delimit all maritime jurisdictions in the area.

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6 All sector claims to Antarctica were placed in abeyance by the 1959 Antarctic Treaty. The treaty will be reviewed in 1991, however, and it is possible that several claims may be reactivated at that time unless a regime governing the exploitation of non-living resources can be negotiated. If claims are reactivated, it seems likely that they may be used to extend national jurisdiction over the Antarctic EEZ and shelf.

7 Argentina and the U.K. both claim the Falkland Islands and their dependencies, South Georgia and the South Sandwich Islands.

8 Britain claims the South Shetland and South Orkney Islands and, along with its Antarctic claim, administers them as part of its British Antarctic Territories (B.A.T.).

9 Norway's claims to ocean areas surrounding Peter I Island have not been delineated, and an equidistance line is used on the map to show the possible extent of that claim.

10 The northern and southern extent of Norway's sector claim has never been defined in Antarctica, so its limits are not shown.

11 Questions regarding the regime for islands (Article 121 of the LOS treaty) are nowhere better illustrated than in the southern oceans. Many of the islands in Antarctic waters are little more than bleak, uninhabited, ice-covered rocks. Such islands include: Scott and the Balleny Islands, the South Orkney, South Shetland, South Sandwich, Peter I, Bouvet, Heard and McDonald Islands. South Georgia and the Kerguelen, Crozet, and Prince Edward Islands are also nearly uninhabitable. Disputes are inevitable over the "habitability" and potential for "economic life" of most of these islands.

12 Also unresolved is jurisdiction over the unclaimed Scott and Balleny Islands which lie within the Antarctic sector claim lines of New Zealand.

13 The edge of Antarctica's permanent ice shelves has been given full consideration in determining the Antarctic's EEZ.

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